

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

JASON D. COOPER

Plaintiff,

-Against-

NEW YORK STATE DEPT. OF CORRECTIONS AND  
COMMUNITY SUPERVISION, COMMISSIONER  
BRIAN FISCHER, SUPERINTENDANT OF  
FIVE POINTS CORRECTIONAL FACILITY,  
MICHAEL SHEAHAN, CORRECTION OFFICERS:  
MALTESE; T. HILL;  
AND OTHER UNKNOWN OFFICERS.

Respondents

FILED  
X   
DEC 11 2012  
CLERK, US DISTRICT COURT, WDNY

Complaint  
12CV1227  
Under the

Civil Rights Act 42 U.S.C § 1983

Se

**Excessive Force Claim**

On Sunday, October 21<sup>st</sup>, I Jason Cooper -Dep. ID #11A 5404- (hereinafter Plaintiff) was assaulted by Officer T. Hill and other unknown actors at Five Points Correctional Facility. On the above stated date, approximate time unknown, while securing the area as a result of altercations taking place, for which the Plaintiff had no involvement, I was handcuffed and then brutally assaulted without provocation. The aforementioned officer punched and kicked me in the face and ribs while I was in restraints, thereby showing no cause for such matters as I could not pose a threat to him or any other officers under such circumstance. I then was escorted to the

Gymnasium still under heavy restraint, pat frisked, and subsequently escorted to the infirmary to be treated for injuries incurred from the assault. I was then brought to the Draft Processing Area where Officer Maltese, under direct order, made me enter the shower room where four other unknown officers awaited as I was forced to my knees while Officer Maltese forced a plastic bag over my head essentially cutting off my air supply and causing me to gasp for air as the other officers kicked and punched me. An unsanctioned interrogation commenced, and when I couldn't provide any answers as to the events that took place in the yard earlier, I was verbally abused and threatened with heavy racial epithets including the word "nigger", which was used repeatedly. I eventually passed out from the insistent torture and awoke later to the threats of Officer Maltese and his kicking me (Plaintiff) in the testicles multiple times. He then reiterated to me that if I told anyone about these events, he would kill me.

Jason D. Cooper, Pro se/Plaintiff

Five Points Correctional Facility

State Route 96, P.O. Box 119

Romulus, NY 14541

CC.

File

UNITED STATES DISTRICT COURT  
[REDACTED] DISTRICT OF NEW YORK  
WESTERN

Jason D Cooper

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

NEW YORK STATE DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION, BRIAN FISHER,  
SUPERINTENDENT OF FIVE POINTS CORRECTIONAL FACILITY  
[REDACTED] MICHAEL SHENAN, CORRECTION  
OFFICERS MALTESE, T. HILL AND OTHER UNKNOWN  
OFFICERS.

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Jason D Cooper  
ID # 11A5404  
Current Institution Five Points  
Address State Route 96, P.O. Box 119  
Romulus, New York 14541

B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

**COMPLAINT**

under the

Civil Rights Act, 42 U.S.C. § 1983  
(Prisoner Complaint)

Jury Trial:  Yes  No  
(check one)

Defendant No. 1

Name Officer Maltese Shield # N/A  
 Where Currently Employed Five Points Correctional Facility  
 Address State Rout 96 P.O. Box 119  
Romulus, New York 14541

Defendant No. 2

Name Officer T. Hill Shield # N/A  
 Where Currently Employed Five Points Correctional Facility  
 Address State Rout 96 P.O. Box 119  
Romulus, New York 14541

Defendant No. 3

Name NEW YORK STATE DEPT. OF CORRECTIONS Shield #  
 Where Currently Employed AND COMMUNITY SUPERVISION  
 Address \_\_\_\_\_

Defendant No. 4

Name BRIAN FISHER COMMISSIONER Shield #  
 Where Currently Employed ALBANY  
 Address \_\_\_\_\_

Defendant No. 5

Name SUPERINTENDANT OF FIVE POINTS CORR. Shield #  
 Where Currently Employed MICHAEL SHEAHAN  
 Address STATE ROUTE 96 P.O. Box 119  
Romulus, New York 14541

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? I was torched by the clo's using unhumane tactics, Plastic Bag over head KICKED in the testicals numerous times

B. Where in the institution did the events giving rise to your claim(s) occur? In the draft room in the draft shower being Strip Searched

C. What date and approximate time did the events giving rise to your claim(s) occur? On Oct 21 2012 at or around 3am

D. Facts: There was a riot in the yard the escorting Officers punched and kicked me in my face & ribs Numerous times following I was escorted to the gym and searched following I was escorted to the infirmary photographed and had a laceration above my right eye treated. Following I was escorted to holding pin D following that I was escorted to the shower room in the Draft room an tauchered plastic bag over my head causing me not to breath. Asked who started the riot I told the c/o I was not invited I was kicked in my legs back head and checked with the plastic bag another time then ask to strip handcuffs were released. I got undressed went thru regular strip search when ask to bend over to check my cavity the c/o's kicked me in my testicals Numerous times calling me a nigger This happened to several other inmates I then was escorted to holding pin B where I awaited to talk to an investigator and counselor who released me back to population stating that they know I had nothing to do w/ the situation and ask me to say I hit my face on a table in return they will move me to any location closer to home And I had not received any tickets

### III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. I received a black eye a laceration to my right eye on the top and bottom, Bruised or broken ribs and bruises between my groin iner this I wrote to medical 10-30-12 10-31-12 was seen but only given motrin I told the nurse I see spots in my right eye and my head was numb and front teeth Numb they only told me they will tell the eye doctor.

### IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes  No

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Five Points Correctional Facility

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes  No \_\_\_\_\_ Do Not Know \_\_\_\_\_

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes \_\_\_\_\_ No \_\_\_\_\_ Do Not Know

If YES, which claim(s)? \_\_\_\_\_

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes  No \_\_\_\_\_

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes \_\_\_\_\_ No \_\_\_\_\_

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

I filed grievance with inmate grievance program Made Statement to LT mindle and to A person from TG

1. Which claim(s) in this complaint did you grieve? Being tortured and beat without having Any thing to do with the situation, Assault By the people who suppose to protect my rights while under their care
2. What was the result, if any? I spoke to LT mindle, counselor Palumbo and a representative from IGS and wrote a grievance as of 11/19/12 nothing has been done
3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: My Family called a lawyer and I was scared to file because I was in fear for my life in that Facility

2. If you did not file a grievance but informed any officials of your claim, state who you

informed, when and how, and their response, if any: I wrote a letter to Counselor Pulumbos who was one of the first people who interviewed me the night of the incident, I also talked to LT. Minde and made a written statement on the night of Thurs 11.1.12 and signed in A office room in the infirmary

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. My Family called numerous officials and tried to talk to Counselor Pulumbos many time as I am still waiting to speak to a lawyer 11.5.12 Asked to be moved in fear for my life At 5 points correctional Facility

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). monetary compensation I am

Seeking 4.0 million because my civil rights were violated and I was tourchered and Assaulted by officer Maltese and officer T. Hill beyond their color of law with disrespect to human life I sustained broken ribs and mental trauma to respect or believe any officer will defend my rights while I am incarcerated or on the streets Pray that this will help end inhumane tactics used by any officer under the color of law Punitive damages to end all crude and unusual punishment by acting officers to use more civil tactics that will find correct accusations in finding rightfull perpetrators

IN ADDITION THE PLAINTIFF IS SEEKING COMPENSATORY, DECLARATIVE, INJUNCTIVE RELIEF, AND PUNITIVE DAMAGES AS A RESULT OF THE PAIN AND SUFFERING AS well AS mental ANGUISH INCURRED BY THE EXCESSIVE FORCED DISPLAYED BY THE NAMED AND UNKNOWN ACTORS.

## VI. Previous lawsuits:

On these claims

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes  No

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Mack Butler, Dashawn Sims, Clyde Lofton, Paul Alver, Kevin King, Ricky Lynd  
 On the behalf of themselves and all other similar situated.

Defendants Suffolk County, Vincent DeMarco in his individual and official capacity  
JOSEPH T CARLAPPA individual and official capacity and John P Meyer et al  
EASTERN DISTRICT OF New York

2. Court (if federal court, name the district; if state court, name the county) FEDERAL

3. Docket or Index number 11-cv-02602

4. Name of Judge assigned to your case Judge Seybert (JS)(GRB)

5. Approximate date of filing lawsuit class Certification April 5 2012

6. Is the case still pending? Yes  No

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) No

On other claims

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes  No

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

6. Is the case still pending? Yes  No

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 22 day of November, 2012.

Signature of Plaintiff

Inmate Number

Institution Address

Quinton D Cooper  
11A5404  
Five Points Correctional Facility  
State Route 96 P.O Box #119  
Romulus, New York 14541

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 22 day of November, 2012, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Quinton D Cooper.

~~Redacted Copy~~  
Inmate Copy

11.5.2012

Statement

To Inmate Grievance Program

On Oct 21 2012, Sunday in the Main yard  
A riot broke out with inmates and C/lo's to  
regain controll of the yard C/lo's instructed all  
inmates to put their hand's up on the  
Fence I Jason D Cooper Complied to all instructions  
even that I had nothing to do with the situation  
I was pulled off the gate instructed to put my hand  
behind my back to be hand cuffed I also Complied  
I was escorted to the entry gate of the Main yard.  
told to face the gate and also instructed to ~~lie~~  
Kneel on the ground I Complied while kneeling  
I was ask why am I mouthing off I said I had  
Nothing to do with the situation I was playing cards  
My card are in the front pocket of my hoodie I was  
told to shut up then was kicked to the right  
Side of my face and kicked Numerous times in  
my ribs following that I was ~~taken~~ escorted to  
the gym thru the main yard entrence their I  
was instructed to sit with my back against  
the wall I complied I sat until I was instructed  
to stand to be pat Frisk I Complied Following I  
was ~~taken~~ escorted to the infirmery to take  
pictures of a Laceration over my right eye  
and of my ribs and right shin Following I  
was escorted to the draft room wher I was  
sat in holding pin D where I waited to

Be striped searched following I was escorted to the shower room where I was striped of clothing and instructed to ~~kneel~~ kneel on the ground I complied then I was toucherred with the acting C/o placed a plastic Bag over my head and checked me, asking who started it this happend two times I respondet I dont know following that I was kicked and punched in my legs, back, head numerous times following I was instructed to stand up C/o that was questioning me told me he was going to make me drink his piss and had a bottle of some kind of substance in his hand he then called me a Nigger and started Normal strip Frisk Procedurs when I was unhandcuffed to spread my cheeks I bent over the C/o kicked me 3 or 4 times in my testicals following I was instructed to get dressed I was escorted to holding Pin B following that I was escorted to the regular frisk room to be interviewed by Counceler Palumbo and a nother investigator I was told they know I had nothing to do with the riot I was then escorted to 11 block to my present cell HA244T I was served no tickets and just placed on 24hr and returned to movement When the facility was resumed movement I wrote a Statement to LT Minde on Thurs. 11-1-12 stating All information <sup>Myself</sup> The only out come is that these

unhumane tactics not be used and the officer's who escorted me to and from the shower be held responsible and all others involved I am emotionally disturbed and in constant fear that it will happen again Choken someone with plastic bags till they can't breath and Degraded by someone kicking me in my testicals and calling me a nigger was not in the C/O's job description under the color of law. I Did not write this sooner in fear for my life. but I did write a statement to LT Minde, I am writing this because of that statement. And I would like to be moved out this facility because I fear for my life from the C/O's retaliation.

Jason D Cooper  
Jason D Cooper

11-5-12

DIN# 11A5404